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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,759	07/21/2003	Robert P. Burke	BOBBURK.009CP1	4850

20995 7590 03/09/2005

KNOBBE MARTENS OLSON & BEAR LLP  
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IRVINE, CA 92614

EXAMINER
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GIBSON, ROBERT W

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/623,759

Applicant(s)

BURKE, ROBERT P.

Examiner

Robert W. Gibson, Jr.

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 is/are allowed.
- 6) ☒ Claim(s) 7-20 is/are rejected.
- 7) ☒ Claim(s) 21-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/26/04, 5/17/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

Art Unit: 3634

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7, 10, 11, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Beeler et al. 5,746,328.

Beeler et al. '328 shows all of the claimed invention including shelf(64), the front portion of which forms a carrier(90) with a longitudinal slot, the carrier(90) also comprises a support portion adapted to underlie and support at least a portion of track(80,82), and removable panel(104) received in the slot of the carrier.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3634

4. Claims 8, 9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beeler et al. "328 in view of Risafi et al. '607.

It would have been obvious to provide flanges on the slot and panel of Beeler et al. to limit the removal of the panel from the slot, as taught by Risafi et al. '607. The length of the panel is considered to be a matter of choice and design.

5. Claims 14-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Risafi et al. 5,088,607.

6. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Laraia '647.

Note, panel carrier(30) secured over shelf(40), at least one product supporting and feeding assembly(44,114) is positioned over a portion of panel carrier(30), front panel(20,24) is secured within a portion of the carrier(26), and member(20) of the front panel extends over a portion of the at least one assembly(44,114).

7. Claims 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if

Art Unit: 3634

rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 1-6 are allowed.

9. The patent to Thalenfeld et al., and the publications to Mueller et al, and Burke are cited to show similar structures.

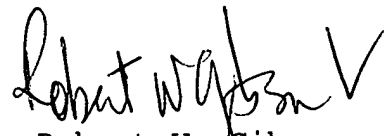
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Gibson, Jr. whose telephone number is 703-308-2168. The examiner can normally be reached on M-F 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or

Art Unit: 3634

Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Robert W. Gibson, Jr.", with a large checkmark-like flourish at the end.

Robert W. Gibson, Jr.  
Primary Examiner  
Art Unit 3634